

1 JUL 1983

OGC 83-05558

MEMORANDUM FOR: See Distribution

STAT FROM:

Legislation Division, OGC

SUBJECT: S. 1143

1. Attached please find a copy of a draft letter from the Department of State to Senator Charles Percy, Chairman of the Senate Foreign Relations Committee, concerning S. 1143, a Bill to condition United States foreign aid to a country upon that country's yearly production of certain narcotic drugs. You will recall that this Bill was circulated to you for information under cover of a memorandum from me, dated 27 May 1983. Since that time, I have received comments from some of you indicating opposition to the Bill in its form.

2. The draft letter has been forwarded to this office by the Office of Management and Budget (OMB) to determine whether or not the Agency objects to the letter.

3. The letter states that the Department of State is opposed to S. 1143 and articulates a number of reasons why. The Agency shares State's opposition to the Bill and shares a number of reasons for that opposition. Accordingly, unless we hear from you to the contrary by 13 July 1983, this office will advise OMB that there is no Agency objection to the letter.

4. Since State shares our opposition to the Bill but may more openly voice its concerns, it is preferable, from the Agency's point of view, for the Department to be the agency articulating Administration opposition to the Bill.

STAT Attachment

Distribution:

- 1 - DDI
- 1 - Deputy Director for Central Reference
- 1 - Associate General Counsel for  
Directorate of Operations
- 1 - Chief, International Activities Division,  
Directorate of Operations
- 1 - C/PCS/DDO
- 1 - NIO for Narcotics

(OGC:PS:maw)

- 1 - PS Chrono
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- 1 - LED File: Narcotics Issues



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

June 16, 1983

13-05094

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer-

Department of Justice  
National Security Council  
Agency for International Development  
Department of the Treasury  
Central Intelligence Agency  
Department of Defense

SUBJECT: State draft report on S. 1143, a bill "To condition United States assistance to any country which is a major producer of opium, coca, or marijuana on reductions by that country in the levels of such production, and for other purposes."

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

A response to this request for your views is needed no later than

THURSDAY, JULY 14, 1983.

Questions should be referred to Tracey Lawler (395-4710 )  
the legislative analyst in this office.

*Ronald K. Peterson*  
RONALD K. PETERSON FOR  
Assistant Director for  
Legislative Reference

Enclosures  
cc: Pat Schlueter  
Mike Usnick



United States Department of State

Washington, D.C. 20520

**JUN 10 1983**

Dear Mr. Stockman:

In accordance with established procedure, there is transmitted herewith a proposed report on S. 1143, a bill "to condition United States assistance to any country which is a major producer of opium, coca, or marijuana on reductions by that country in the levels of such production, and for other purposes".

Please inform the Department whether there is any objection to the submission of this report.

With cordial regards,

Sincerely,

Powell A. Moore  
Assistant Secretary  
for Legislative and  
Intergovernmental Affairs

Enclosure:

Six copies of  
Proposed Report.

The Honorable  
David A. Stockman, Director,  
Office of Management and Budget.

98TH CONGRESS  
1ST SESSION

# S. 1143

To condition United States assistance to any country which is a major producer of opium, coca, or marihuana on reductions by that country in the levels of such production, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

APRIL 26, 1983

Mrs. HAWKINS introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

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## A BILL

To condition United States assistance to any country which is a major producer of opium, coca, or marihuana on reductions by that country in the levels of such production, and for other purposes.

1        *Be it enacted by the Senate and House of Representa-*  
2        *tives of the United States of America in Congress assembled,*  
3        That this Act may be cited as the "Diplomacy Against Drugs  
4        Act".

5        SEC. 2. (a) For any fiscal year, United States assistance  
6        may be provided for a country which is a major producer of  
7        opium, coca, or marihuana only if the amount of opium, coca,  
8        or marihuana (as the case may be) that was produced in that

1 country during the preceding fiscal year is at least 20 per  
2 centum less than the amount produced in that country during  
3 the fiscal year which preceded such preceding fiscal year.

4 (b) To the extent that the amount of opium, coca, or  
5 marihuana (as the case may be) that is produced in a major  
6 opium, coca, or marihuana producing country is reduced by  
7 more than 20 per centum from one fiscal year to the next,  
8 the United States Government shall give serious considera-  
9 tion to increasing the level of United States assistance for  
10 that country during the fiscal year following such reduction.  
11 In addition, in determining for the next fiscal year thereafter  
12 whether that country has met the requirement of subsection  
13 (a), the amount of any such additional reduction shall be car-  
14 ried over and counted as if it had occurred in the fiscal year  
15 following the year in which it actually occurred.

16 SEC. 3. The Secretary of the Treasury shall instruct  
17 each United States Executive Director of the International  
18 Bank for Reconstruction and Development, the International  
19 Development Association, the International Finance Corpo-  
20 ration, and the Inter-American Development Bank to oppose  
21 actively the extension of any loan or the furnishing of any  
22 financial assistance or technical assistance during a fiscal  
23 year by the respective international financial institution to a  
24 country which is a major producer of opium, coca, or mari-  
25 huana, unless the amount of opium, coca, or marihuana (as

1 the case may be) that was produced in that country during  
2 the preceding fiscal year is at least 20 per centum less than  
3 the amount produced in that country during the fiscal year  
4 which preceded such fiscal year.

5 SEC. 4. Not later than March 15 of each year, the Di-  
6 rector of Central Intelligence shall prepare and transmit to  
7 the Congress and to the Secretary of the Treasury a report  
8 on opium, coca, and marihuana production in major produc-  
9 ing countries. Each such report shall set forth the actual  
10 amount of opium, coca, or marihuana (as the case may be)  
11 which was produced in each major opium, coca, or marihuana  
12 producing country during the preceding fiscal year and the  
13 estimated amount of such production for the then current  
14 fiscal year. Each such report shall also set forth the amounts  
15 of opium or coca produced solely for pharmaceutical purposes  
16 in each such country during each such year.

17 SEC. 5. (a) For purposes of this Act, a country is a  
18 major producer of opium if it produced twenty metric tons or  
19 more of opium during a fiscal year.

20 (b) For purposes of this Act, a country is a major pro-  
21 ducer of coca or marihuana if it produced fifteen thousand  
22 hectares or more of coca or marihuana (as the case may be)  
23 during a fiscal year.

1 (c) In carrying out this Act, opium or coca produced  
2 solely for pharmaceutical purposes shall not be counted in  
3 determining amounts of production.

4 (d) As used in this Act, the term "United States assist-  
5 ance" includes any assistance of any kind (other than assist-  
6 ance involving only the provision of food or medicine) which  
7 is provided by grant, sale, loan, lease, credit, guaranty, or  
8 insurance, or by any other means, by any agency or instru-  
9 mentality of the United States Government to or for the  
10 benefit of any foreign country, including—

11 (1) assistance under the Foreign Assistance Act of  
12 1961 (including programs under title IV of chapter 2  
13 of part I, relating to the Overseas Private Investment  
14 Corporation, but excluding programs under chapter 8  
15 of part I, relating to international narcotic control as-  
16 sistance);

17 (2) sales, credits, and guaranties under the Arms  
18 Export Control Act;

19 (3) sales under title I (including title III) and do-  
20 nations under title II of the Agricultural Trade Devel-  
21 opment and Assistance Act of 1954 of nonfood com-  
22 modities;

23 (4) financing programs of the Commodity Credit  
24 Corporation for export sales of nonfood commodities;

1           (5) financing under the Export-Import Bank Act  
2 of 1945;

3           (6) assistance under the Migration and Refugee  
4 Assistance Act of 1962;

5           (7) programs under the Peace Corps Act;

6           (8) assistance under the Inter-American Founda-  
7 tion Act;

8           (9) assistance under the African Development  
9 Foundation Act;

10          (10) financial assistance for foreign persons or  
11 groups under the Mutual Educational and Cultural Ex-  
12 change Act of 1961; and

13          (11) assistance of any kind under any other Act.

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United States Department of State

Washington, D.C. 20520

Dear Mr. Chairman:

The Committee on Foreign Relations has asked the Secretary for comments on S. 1143, a bill "to condition United States assistance to any country which is a major producer of opium, coca, or marijuana on reductions by that country in the levels of such production, and for other purposes."

While we share the bill's goal of reducing production of illicit narcotics, the ~~Department must oppose S. 1143~~. Implementation of this bill would undermine current efforts to achieve international control of illicit narcotics production and distribution and ~~could create numerous other problems~~. We note that earlier this year the Committee considered other legislation which would have also required automatic suspensions of assistance and imposed other sanctions, and rejected such proposals; instead, the Committee approved an amendment strengthening existing laws concerning Presidential determinations on assistance to narcotics producing countries and the Department's analysis of cooperation by such countries.

1. S. 1143 would suspend U.S. assistance of any kind (except for food, medicine and narcotics control) (Sec. 2a) and would direct U.S. representatives to multilateral development banks to oppose loans or extensions of loans to any country (Sec. 3) unless the amount of opium, coca or marijuana produced in that country during the preceding fiscal year was at least 20 percent less than the amount produced during the next preceding fiscal year. The bill provides that, for countries wherein reduction from year to year is more than 20 percent, the United States should give serious consideration to increasing assistance to that country; or, the overage may be credited to the following year (Sec. 2b).

~~There is sufficient authority in statute.~~ Sec. 481 of the Foreign Assistance Act directs the President to suspend assistance to any country which the President determines has failed to take adequate steps to prevent illicit narcotics produced or trafficked through such countries from entering the United States. And there is authority in the Inter-American Development Bank Act (Sec. 22) and International Development Association Bank Act (Sec. 13) requiring the Secretary of the Treasury

The Honorable  
Charles H. Percy, III,  
Chairman,  
Committee on Foreign Relations,  
United States Senate.

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to instruct U.S. representatives to vote against loans, etc., for any such country when the President determines that such country has failed to take adequate steps on narcotics control.

S. 1143 imposes the single criterion of narcotics control as the determining factor in decisions on economic and military assistance, and on the position of the United States in the deliberations of international financial institutions. This one-dimensional approach was also rejected in previous legislation considered by the Committee.

The bill assumes that decreases in production are caused by government actions, and that increases in production are a result of government failures to act. Much of the decline in Pakistani opium production from 800 tons in 1979 to an estimated 50-75 tons in 1982 can be attributed to drought and decreased planting due to low opium prices. Similarly, drought reduced production in the Golden Triangle from 400-500 tons to 160-180 tons in 1979, but it has rebounded to 600-610 tons in 1981 and 1982.

Had this bill been law in 1980, a report on which aid distributions would be based would have given Pakistan a carry-forward credit of 675 metric tons. Countries in the Golden Triangle would similarly enjoy credits. Credit would be given, not for governmental actions (which the bill does not recognize in any event), but because the country suffered a drought.

S. 1143 could be counterproductive to our current efforts in several countries, by forcing cancellation of development assistance or other support we are providing in addition to narcotics-related assistance. Bolivia is just now evolving an action plan that has potential for ultimate reduction in coca production; this bill could cut-off the development assistance that makes this plan viable. Peru would be another example.

2. The bill defines a major producer (Sec. 5) as a country which produces 20 metric tons or more of opium, or 15,000 or more hectares of coca or marijuana during a fiscal year, exclusive of opium or coca produced for pharmaceutical purposes (the bill ignores other licit production).

The bill applies an arbitrary standard in its attempts to define major producers and to set a performance measure. There are several problems with the use of such standards and measures. Such standards do not take into account the differing capabilities of the various governments to undertake narcotics control; e.g., central governments in Pakistan and Burma do not yet have effective control over key growing regions. Moreover, production measured in tonnage or hectares can change sharply from year to year, independent of government actions.

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For instance, while supporting documents have singled out Colombia as one of the focal points of this legislation, the bill may not even apply to Colombia because Colombian marijuana cultivation may be below the 15,000 hectare standard which this bill would establish for marijuana cultivation, and is well below the 15,000 hectare standard for coca cultivation.

3. The bill requires the Director of Central Intelligence to submit a report to the Congress and to the Secretary of the Treasury, not later than March 15 of each year, on the actual amounts of opium, coca and marijuana production in major producing countries for the preceding fiscal year and the estimate for the current year (Sec. 4).

The narcotics intelligence community (INM, DEA, CIA and others) does not have the capability to assess actual amounts of narcotic drugs produced -- in metric tons or in hectares. Current reporting systems permit estimates about narcotics production, with varying precision by drug and by country.

Sec. 481 already requires an annual report from the Department on February 1, providing Congress a status report on narcotics control, and the Committee has approved an amendment which broadens that reporting requirement in terms of prior and future year activities. In this context, the bill is redundant.

In sum, we believe this bill imposes crop control as the sole criterion for determining whether economic and military assistance is continued or terminated, notwithstanding other important foreign policy considerations; it requires a termination of assistance based upon data which is not available and cannot be provided; the standard of performance may not bear any relationship to government narcotics control actions; and it interferes with the conduct of narcotics control initiatives.

The Office of Management and Budget advises that from the standpoint of the Administration's program, there is no objection to the submission of this report.

Sincerely,

Powell A. Moore  
Assistant Secretary  
for Legislative and  
Intergovernmental Affairs